S.B. CIVIL WRIT PETITION NO.4624/2006

Pranay Sharma
Vs.
University of Rajasthan & Anr.

DATE OF ORDER : 24.5.2007

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

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Shri Ashwinee Jaiman on behalf of
Shri R.N. Mathur for the petitioner.
Shri N.K. Sharma]
Shri K. Verma] for the respondents.

Heard learned counsel for the parties.

In this petition, the contention of the petitioner is that internal marks of the petitioner were required to be sent by respondent no.3, Sobhasaria Engineering College, Sikar, in time, and if those marks had been sent in time, the petitioner would have been declared pass in the second attempt of Vth Semester.

Learned counsel for the respondent-College however asserted that those marks were sent in time but the University of Rajasthan did not add the same while declaring the result of the petitioner. Learned counsel for the University, however, controverts this position by stating that the marks were not timely sent/received and that is why they could not be added at the time of preparation of result. Learned counsel also submits that subsequently the petitioner had appeared in the third attempt and failed, therefore this argument is of no avail to him.

Learned counsel for the petitioner relied on the judgment of a Co-ordinate Bench of this Court in Mahesh Kumar Chouhan Vs. University of Rajasthan

& Anr. (S.B. Civil Writ Petition no.6236/2006 decided on 8.3.2007) wherein on an identical controversy the writ petition was allowed with direction to the respondents to issue correct mark-sheet to the petitioner.

Having heard counsel for the parties and perused the material on record, I find that there is no dispute at least about the fact that marks were awarded to the petitioner earlier than declaration of the result. The controversy lies in the narrow compass whether those marks were sent by the College to the University in time or were received in the University subsequent to declaration of the result. In neither of the events, however, delay can be attributed to the petitioner and this

appears to be the result of some communication gap inter se between the University and the College. In any case, on consideration of similar controversy of this Court in Mahesh Kumar Chouhan Vs. University of Rajasthan (supra) that since the University actually received the internal marks, corrected marksheet be issued to the petitioner. Accordingly, in the present case also, the University is directed to issue revised/corrected mark-sheet of the second attempt and if on adding the internal marks of the subject in which the petitioner was earlier shown to have failed, the petitioner shall be treated as having passed notwithstanding his failure to clear third attempt, for no occasion for his appearing in the third attempt would

have arisen if the internal marks would have timely added at the time of preparation of the result of second attempt.

With these directions, the writ petition is allowed but without any order as to costs.

(MOHAMMAD RAFIQ),J.

Skant/-